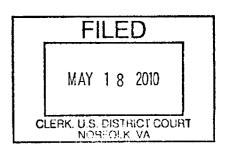
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF VIRGINIA Newport News Division



GERRY SMITH,

v.

Plaintiff,

ACTION NO. 4:08cv122

MICHAEL J. ASTRUE, COMMISSIONER SOCIAL SECURITY ADMINISTRATION,

Defendant.

FINAL ORDER

Plaintiff brought this action under 42 U.S.C. §§ 1383(c)(3) seeking judicial review of the decision of the Commissioner of the Social Security Administration ("Commissioner") denying plaintiff's claim for a period of disability insurance benefits ("DIB"), and supplemental security income ("SSI") under Title XVI of the Social Security Act.

On October 12, 2009, this matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72(b) of the Federal Rules of Civil Procedure for report and recommendation. Report of the magistrate judge was filed on April 30, 2010, recommending that the final decision of the Commissioner be affirmed. By copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the magistrate judge. The court has received no objections to the magistrate judge's report and recommendation, and the time for filing same has expired.

The court does hereby adopt and approve the findings and recommendations set forth in the report of the United States Magistrate Judge filed April 30, 2010. Accordingly, plaintiff's motion for summary judgment is DENIED; defendant's motion for summary judgment is GRANTED; and, the final decision of the Commissioner is AFFIRMED.

The Clerk shall forward a copy of this Final Order to counsel for plaintiff and defendant.

Rebecca Beach Smith
United States District Judge

REBECCA BEACH SMITH UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
May 18 , 2010